

REMARKS

Claims 1-20 are pending. By this Submission, independent claims 1, 7, and 13 have been amended to recite an enhanced label “having a uniqueness requirement of a predetermined time period.” Support for these amendments may be found, for example, in paragraphs [29] and [73] of the originally filed disclosure, among other places in the disclosure. Claims 1-20 remain pending for examination.

In the final Office Action¹, claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,148,291 (“Radican”) in view of U.S. Patent No. 5,216,620 (“Sansone”).

Claims 1, 7, and 13 are the only independent claims pending in the application. Concerning the rejection of those independent claims, Applicant has amended claims 1, 7, and 13 and respectfully submits that they comply with 35 U.S.C. §§ 112, 102(b), and 103(a) for at least the reasons outlined in more detail herein. Nevertheless, to the extent that the Examiner considers rejecting independent claims 1, 7, and 13 based on the references of record in the application, Applicant respectfully submits that independent claims 1, 7, and 13 are patentably distinguishable from those references, and such claim rejections would be improper for at least the reasons outlined herein.

“The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements.”

¹ Applicant respectfully submits that the Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant respectfully declines to automatically subscribe to them.

M.P.E.P. § 2142, 8th Ed., Rev. 7 (July 2008) (internal citation and inner quotation omitted). “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” Id. at § 2143.01(III). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” Id. at § 2143.03. “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” Id. at § 2141.02(I).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” Id. at § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” Id. at § 2141(III). For at least the following reasons, a *prima facie* case for obviousness has not been established, and claims 1-20 are allowable.

Here, a *prima facie* case for obviousness has not been established at least because the scope and content of Sansone has not been properly determined, and consequently, the final Office Action does not recognize the large differences between Applicant’s claims and the prior art. Accordingly, irrespective of the teachings of the primary reference Radican, Applicants respectfully request the reconsideration and

withdrawal of the rejections based on Radican in view of Sansone for at least the reasons outlined below.

In the final Office Action, the Examiner alleged that Sansone “teaches the one time printing of a label and/or tag ‘for a particular run of mail’ and the information pertaining to this ‘particular’ run is encoded as an alphanumeric bar code (column 4, lines 40-45).” Office Action at 3. This is incorrect

Instead, Sansone describes a label 29, depicted in Fig. 2a, reproduced below, lacking a label unique identifier and a uniqueness requirement of a predetermined time period. “With reference to FIG. 2a, the label 29 includes information identifying the mailer 50 and his location including his first three zip code digits, the destination of the tray 52 and the zip code thereof 54, the airport 56 to which the tray is to be sent, and the tray contents 58 including the class of mail, zip code information and degree of sortation.” Sansone, col. 4, ll. 21-27.

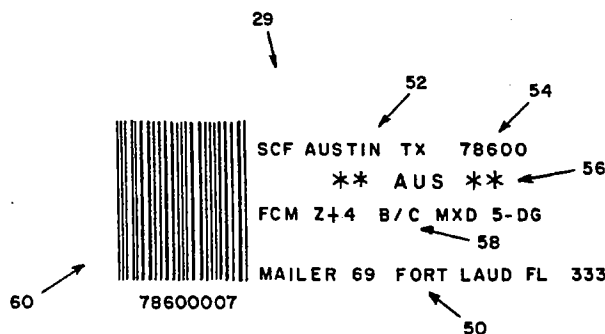


FIG 2A

Sansone further discloses a tag 32, depicted in Fig. 2b, reproduced below, used to provide verification information and to identify the distribution center “having the

destination **50** of the tray, the first three digits of the zip code **52**, the class of mail **54**, **56** and the identification number **57** of the contract between the post office **14** and the common carrier **38** at the lower portion thereof. At the lower portion is shown the dock number **59** where the tray is to be routed, the airline and flight number **58**, the routing information **60**, time of departure **62**, expected time of arrival **64**, and the weight in pounds of the individual tray and total weight of all trays **66** on the particular flight." Id. at col. 4, ll. 30-40.

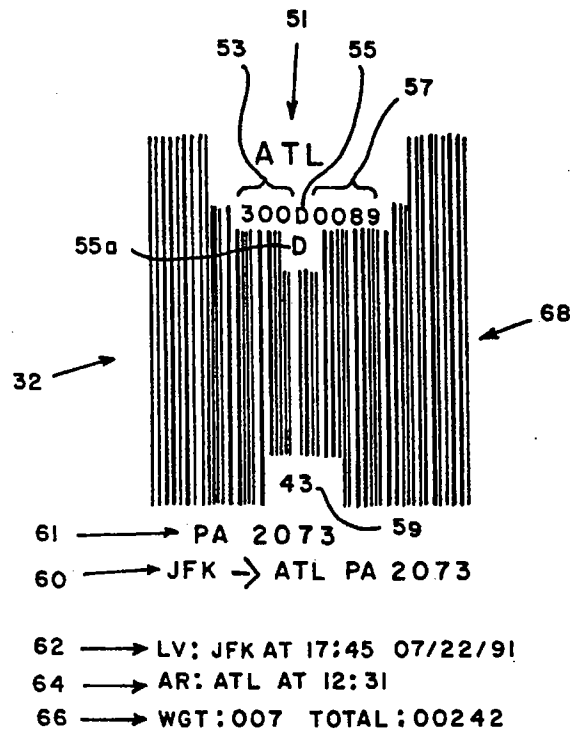


FIG. 2B

Applicant respectfully submits that the information provided on Sansone's label 29 and tag 32 fails to constitute or suggest to an enhanced label having a uniqueness requirement of a predetermined time period as recited in independent claims 1, 7, and

13. The notion that label 29 or tag 32 discloses an enhanced label having a uniqueness requirement of a predetermined time period is inaccurate because none of the information provided on label 29 or tag 32 corresponds to a label unique identifier, which is included in the enhanced label of claims 1, 7, and 13.

Instead, as described above, Sansone's label 29 and tag 32 recite different types of information, none of which result in at least a unique label identifier. Those types of information are representative of typical characteristics—destination, origination, physical properties, the mailer, and the like—of the tray, none of which serve to uniquely distinguish the tray, hence the label, from other trays and labels. Applicant respectfully submits that the information displayed on either of label 29 or tag 32 is the type of information that can be found on any other tray matching those characteristics. For instance, multiple trays in the same container may share all of the characteristics identified in label 29 or tag 32.

For at least the reasons set forth above, independent claims 1, 7, and 13 are allowable over the references of record. Dependent claims 2-6, 8-12, and 14-20 depend from a corresponding one of allowable independent claims 1, 7, and 13. Consequently, those dependent claims are allowable for at least the same reasons as independent claims 1, 7, and 13 and by virtue of reciting additional elements not disclosed in the references of record.

Therefore, Applicant respectfully requests reconsideration of this application, withdrawal of the claim rejections, and allowance of pending claims 1-20.

If the Examiner believes that a telephone conversation might advance prosecution, the Examiner is cordially invited to call Applicant's undersigned attorney at (404) 653-6400.

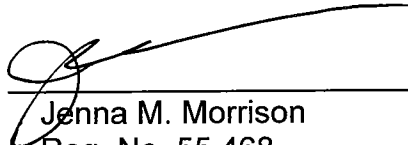
Please grant any extensions of time required to enter this Response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: December 31, 2009

By:



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